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Atty. Dkt. No. AVAN/000308

**REMARKS**

This is intended as a full and complete response to the Office Action dated June 2, 2005, having a shortened statutory period for response set to expire on September 2, 2005. Claims 1-11 were examined. The Examiner has rejected claims 1, 2, and 7-11 as being anticipated by Kawachi (U.S. Patent No. 4,978,188). The Examiner has rejected claims 2-6 as being obvious in view of Kawachi.

Priority

In the office action, the Examiner stated that a certified copy of the German application has not been filed. In response, Applicant will obtain and file a certified copy of the priority document in accordance with 35 U.S.C. § 119(b).

Specification

Applicant has amended paragraphs [0036] and [0040] in the published application to correct informalities. Applicant respectfully requests the amendment to the specification be entered.

Claim Rejections Under 35 U.S.C. § 102(b)

The Examiner has rejected claims 1 and 8 as being anticipated by Kawachi. In response, Applicant has amended claims 1 and 8 and, as the rejection might be applied to the amended claim, respectfully traverses.

As amended, claims 1 and 8 include the limitation of applying power equal to or above a predetermined power level to at least one electrode to heat a region of the waveguide for causing an irreversible birefringence change of the waveguide. Kawachi does not disclose applying heat directly to the waveguide to cause an irreversible birefringence change of the waveguide. In contrast, Kawachi requires the use of a stress applying film to exert a stress on the waveguide to irreversibly change the stress by trimming the film. (See Abstract of Kawachi.) In fact, as set forth in the background of the present invention, the use of a stress applying film for applying a stress to the waveguide is known in the art; however a disadvantage of this approach is that it

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requires the deposition of the stress applying thin film (amorphous silicon) and a laser trimming process.

Thus, one purpose of the present invention is to cause an irreversible birefringence change without using stress applying film. For these reasons, Kawachi fails to teach or suggest each and every one of the limitations of amended claims 1 and 8, and this failure precludes Kawachi from anticipating amended claims 1 and 8. Applicant therefore submits that amended claims 1 and 8 are in condition for allowance and respectfully requests withdrawal of the § 102(b) rejection.

Additionally, claims 2 and 7 depend from claim 1 and claims 9-11 depend from claim 8 and are allowable for at least the same reasons as claims 1 and 8. Applicant therefore respectfully requests withdrawal of the § 102(b) rejection of claims 2, 7 and 9-11 and allowance of those claims as well.

#### Claim Rejections Under 35 U.S.C. § 103

The Examiner has rejected claims 2-6 as being obvious in view of Kawachi. Applicant respectfully traverses the rejection. Claims 2-6 depend from allowable amended claim 1. As set forth above, Kawachi fails to teach or suggest all the limitations in amended claim 1. For this reason, Kawachi cannot be used to render claims 2-6 obvious. Applicant therefore submits that claims 2-6 are in condition for allowance and respectfully requests withdrawal of the § 103(a) rejection.

#### New Claims

Claims 12-14 have been added to better define aspects of the present invention. Applicant submits that no new matter was added. Furthermore, claims 12-14 depend from allowable claim 1. Therefore, Applicant believes that claims 12-14 are allowable for at least the same reasons as claim 1.

#### Conclusion

Having addressed all issues set out in the office action, Applicant respectfully submits that the claims are in condition for allowance and respectfully requests that the claims be

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allowed. If the Examiner has any questions, please contact the Applicants' undersigned representative at the number provided below.

Respectfully submitted,



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